

BASIC CRITERIA FOR CULTURAL RESOURCES REPORTS

FOR SECTION 106 CONSULTATION WITH THE STATE HISTORIC PRESERVATION OFFICER (SHPO) UNDER THE NATIONAL HISTORIC PRESERVATION ACT (NHPA)

CULTURAL RESOURCES REPORTS

The Section 106 compliance reports must be prepared by a qualified researcher that meets the Secretary of the Interior's Professional Qualifications Standards (http://www.cr.nps.gov/local-law/arch_stnds_9.htm).

REPORT TERMINOLOGY

A cultural resources report used for Section 106 consultation should use terminology consistent with 36 CFR, Section 800.16 of the NHPA. However, this does not mean that the report needs to "filled" with passages and interpretations of the regulations; the SHPO already knows the law.

- *If "findings" are made, they must be one of the four "findings" listed in Section 106. These include:*

"No historic properties affected" (no properties are within the area of potential effects [APE], including the below ground APE).

"No effect to historic properties" (properties may be near the APE, but the project will not impact them).

"No adverse effect to historic properties" (the project may affect historic properties, but the impacts will not be adverse).

"Adverse effect to historic properties" Note: The SHPO must be consulted at this point. If your consultant proceeds on his own, his efforts may be wasted.

CURRENT RECORDS SEARCH INFORMATION

- *A current (less than a year old) records search from the appropriate Information Center. The records search should include maps that show all recorded sites and surveys in relation to the APE for the project.*
- *The APE is three-dimensional and includes all areas that may be affected by the project. It includes the surface area and extends below ground to the depth of any project excavations.*
- *The records search request should be made for an area larger than the APE. The appropriate area varies for different projects but should be drawn large enough to provide information on what types of sites may exist in the vicinity.*

NATIVE AMERICAN AND INTERESTED PARTY CONSULTATION

- Native American and interested party consultation should be initiated at the beginning of any cultural resource investigations. The purpose is to gather information from people with local knowledge that may be used to guide research.
- A project description and map should be sent to the Native American Heritage Commission (NAHC) requesting a check of their Sacred Lands Files. The Sacred Lands Files include religious and cultural places that are not recorded at the information centers.
- The NAHC will include a list of Native American groups and individuals with their response. A project description and maps should be sent to everyone on the list asking for information on the project area.
- Similar letters should be sent to local historical organizations.
- Follow-up contact should be made by phone, and a phone log should be included in the report.

WARNING PHRASES IN ALREADY PREPARED CEQA REPORTS

- A finding of **“no known resources”** doesn’t mean anything. The consultant’s job is to find out if there are resources within the APE or to explain why they are not present.
- **“The area is sensitive for buried archaeological resources”**, followed by a statement that **“monitoring is recommended as mitigation”**. Monitoring is not an acceptable mitigation. A reasonable effort should be made to find out if buried resources are present in the APE.
- **“The area is already disturbed by previous construction”** may be true, but documentation is still needed to show that the new project will not affect cultural resources. As an example, an existing road can be protecting a buried archaeological site, or previous construction may have impacted an archaeological site that was never documented.
- No mention of **“Section 106.”** A report that meets CEQA requirements may not be adequate for Section 106 compliance.

SHPO CONSULTATION LETTER

- A Section 106 consultation letter should be prepared by a qualified researcher, and submitted along with the Section 106 Report to the State Water Board to use to consult with the Office of Historic Preservation.

STATE WATER BOARD CONTACT INFORMATION

If you have any questions related to CWSRF Program cultural resources compliance, please contact Mr. Ahmad Kashkoli at (916) 341-5855 or Ahmad.Kashkoli@waterboards.ca.gov.